

REMARKS

The paragraph entitled “Cross-Reference to Related Applications” has been replaced. The phrase “all of which are incorporation by reference” has been removed from the new priority statement.

Claims 35, 36, 38, 39, 42 and 43 have been canceled.

Claims 32 and 34 have been amended. Specifically the word “complimentary” has been replaced with the word “complementary”. In addition, part (b) of each claim now specifies the nucleic acid sequence be “fully” complementary to the nucleic acid sequence of (a).

Claims 33 and 37 have been amended. Specifically, SEQ ID NO’s 1 and 2 have been removed from the list of SEQ ID NO’s in these claims.

I. Objection to the Specification

The Examiner has objected to the specification, stating that introduction of the phrase “all of which are incorporated by reference herein” in reference to U.S. Provisional Patent Applications 60/426,601 and 60/319,402 results in added matter that is not supported by the original disclosure. Applicant has submitted a new priority statement that lacks the phrase “all of which are incorporated by reference herein”.

II. Claim Objections

The Examiner has objected to claims 34 and 34, stating that the word “complementary” is misspelled in these claims. Applicant notes that the spelling of complementary has been corrected.

The Examiner has objected to claims 33 and 37, stating that neither SEQ ID NO:1 or SEQ ID NO:2 encode the protein of SEQ ID NO’s 4, 7 or 12. Applicant notes that SEQ ID NO:1 and SEQ ID NO:2 have been removed from the sequences listed in claims 33 and 37.

The Examiner has objected to claim 34 stating that the word “of” is missing between the words “consisting” and the word “a”. Applicant has corrected this error in the attached, amended claim set.

The Examiner has objected to claims 35, 36, 38, 39, 42 and 43 as failing to further limit the subject matter of the previous claim. In the interest of expediting prosecution, Applicant has canceled these claims.

III. Rejections Under 35 U.S.C. 112, first paragraph – enablement

The Examiner has rejected claims 32, 34 and 37 for lack of enablement. Specifically, the Examiner states that while the specification enables isolated nucleic acid molecules comprising or consisting of nucleic acid sequences fully complementary to nucleic acid molecules encoding proteins disclosed therein, it does not enable nucleic acid molecules comprising or consisting of nucleic acid sequences merely complementary to nucleic acid molecules encoding disclosed proteins.

In the interest of expediting prosecution, Applicant has amended claims 32 and 34 so that part (b) reads, “a nucleic acid sequence fully complementary to the nucleic acid sequence of (a).”

The Examiner has also rejected claim 44 for lack of enablement. Specifically the Examiner states that while the claim specifies that the method be practiced “under conditions” in which the receptor has octopamine receptor activity, the specification does not provide any guidance as to conditions in which octopamine receptor activity can be produced without the presence of octopamine. The Examiner thus concludes that in order to practice the claimed method without octopamine, the skilled artisan would first need to engage in experimentation to find other conditions in which the protein of SEQ ID NO:12 has “octopamine receptor activity.” The Examiner states that such experimentation would be undue. The Examiner also states that claim 44 does not limit the protein used in the claimed method to an “isolated” protein and thus encompasses methods of screening wherein the protein is expressed in non-host cells, such as in transgenic animals.

While Applicant disagrees with the Examiner’s conclusions, in the interest of expediting prosecution, Applicant has amended claim 44. Specifically the claimed method now comprises contacting an isolated protein comprising SEQ ID NO:12 with octopamine and a putative inhibitory compound, and determining if the protein binds octopamine in the presence of the compound. Applicant contends that such an assay is easily within the abilities of one skilled in the art.

IV. Rejections Under 35 U.S.C. §112, first paragraph – written description

The Examiner has rejected claims 32, 34 and 37 for lack of written description. Specifically the Examiner states that because the nucleic acid molecules claimed in part (b) are

not “fully” complementary to those of part (a), the claims are genus claims directed to variant isolated nucleic acid molecules.

As noted above, Applicant has amended claims 32 and 34 so that part (b) reads, “a nucleic acid sequence fully complementary to the nucleic acid sequence of (a).”

V. Rejections Under 35 U.S.C. §112, second paragraph – indefiniteness

The Examiner has rejected claims 33 and 37-39 as being indefinite. Specifically the Examiner states that parent claims 32 and 34 are limited to isolated nucleic acid molecules encoding a protein comprising or consisting of SEQ ID NO:4, 7 or 12, or a complement thereof. The Examiner further states that the dependent claims include SEQ ID NO:1 and 2; however, these SEQ ID NO’s do not encode SEQ ID NO:4, 7 or 12 but would encode approximately 5% of the full length protein. Thus the claims are indefinite.

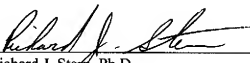
Initially Applicant notes that claims 38 and 39 have been canceled. Further, as noted above claims 33 and 37 have been amended to remove reference to SEQ ID NO:1 and SEQ ID NO:2.

CONCLUSION

The current claims are believed to be in condition for allowance and Applicant solicits such from the Examiner. The Examiner is invited to contact the undersigned should any issues remain.

Respectfully submitted,

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